



**FARMERS
BRANCH**

ORDINANCE NO. 2946

AN ORDINANCE OF THE CITY OF FARMERS BRANCH AMENDING ARTICLE REGARDING NATURAL GAS DRILLING AND PRODUCTION; AMENDING ARTICLE XXI REGARDING NATURAL GAS DRILLING AND PRODUCTION; AMENDING TITLE OF THE FARMERS BRANCH CITY CODE BY ESTABLISHING CHAPTER 34-500, NATURAL GAS DRILLING AND PRODUCTION; ESTABLISHING REGULATIONS FOR THE EXPLORING, DRILLING, DEVELOPING, PRODUCING, TRANSPORTING AND STORAGE OF NATURAL GAS; PROVIDING FOR DEFINITIONS; PROVIDING FOR THE APPLICABILITY OF THE ORDINANCE; PROVIDING FOR REQUIREMENTS FOR A GAS DRILLING PERMIT; PROVIDING FOR VARIANCES TO THIS ORDINANCE; PROVIDING FOR A PENALTY CLAUSE OF \$2,000.00 PER INCIDENT; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE ON AND AFTER ITS ADOPTION AND PUBLICATION.

WHEREAS, new technological advancements in natural gas drilling and production have made exploration in new areas possible, including the Barnett Shale formation, of which Farmers Branch is a part; and

WHEREAS, the exploration, development and production of natural gas in the City are activities which necessitate regulation to ensure that all property owners, mineral and otherwise, have the right to enjoy their property and its benefits and revenues; and

WHEREAS, the City is authorized to adopt ordinances pursuant to its police power to protect the health, safety and general welfare of its citizens; and

WHEREAS, the City of Farmers Branch deems it necessary, for the purpose of promoting the health, safety, morals, or general welfare of the City to amend the Code of Ordinances to add additional regulations regarding oil and gas well drilling and production regulations; and

WHEREAS, all legal prerequisites and requirements for the passage of this Ordinance have been adhered to, including but not limited to the Open Meeting Act; and

WHEREAS, the City of Farmers Branch City Council deems the passage of this Ordinance to be in the best interest of the health, safety, and welfare of the public.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FARMERS BRANCH, TEXAS:

SECTION 1. That all matters stated hereinabove are incorporated herein by reference as if copied in their entirety.

SECTION 2. That Chapter 34 of the Code of Ordinances is hereby amended by the addition of Section 34-500 Natural Gas Exploration, Drilling, and Production which provisions are included herewith as Exhibit "A", such exhibit being incorporated herein by reference. the use complies with all terms, conditions and requirements of this ordinance relating to natural gas exploration and production and the Texas Railroad Commission.

SECTION 3 If any section, paragraph, subdivision, clause, phrase, or provision of this ordinance shall be judged invalid or unconstitutional, the same shall not affect the validity of this ordinance as whole or any portion thereof other than that portion so decided to be invalid or unconstitutional.

SECTION 4. Any person violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine in a sum not to exceed Two Thousand Dollars (\$2,000.00) for each offense and a separate offense shall be deemed committed upon each day during or on which a violation occurs.

SECTION 5. In addition to, and accumulative of all other penalties, the City shall have the right to seek injunctive relief for any and all violations of this ordinance.

SECTION 6. This ordinance shall take effect immediately from and after its passage and as the law in such case provides.

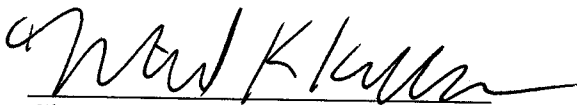
Duly passed by the City Council of the City of Farmers Branch, Texas, on this the 18th day of March 2008.

ADOPTED:



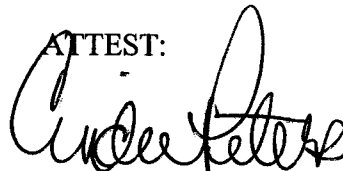
Bob Phelps, Mayor

APPROVED AS TO FORM:



City Attorney

ATTEST:



Cindee Peters, City Secretary

NATURAL GAS EXPLORATION, DRILLING AND PRODUCTION

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GENERAL PROVISIONS

Sec. 34.501. Purpose.

The exploration, development and production of gas in the City are activities which necessitate reasonable regulation to ensure that all property owners, mineral and otherwise, have the right to enjoy their property in a manner where the health, safety and welfare of the public is protected. It is hereby declared to be the purpose of these provisions to establish reasonable and uniform limitations, safeguards and regulations for operations related to the exploring, drilling, developing, producing, transporting and storing of gas and other substances produced in association with gas production within the City to protect the health, safety and general welfare of the public, minimize the potential impact to property and mineral rights owners, protect the quality of the environment and encourage the orderly production of available mineral and gas resources.

Sec. 34.502. Definitions.

All technical industry words or phrases related to the drilling and production of gas wells not specifically defined in this chapter shall have the meanings ascribed to them by the Texas Railroad Commission ("TRC") or the Texas Commission on Environmental Quality ("TCEQ"). Any other technical industry words or phrases related to the drilling and production of gas wells not specifically defined in this Section, by the TRC or by the TCEQ shall have the meanings customarily attributable thereto by prudent and reasonable gas industry operators. The following words, terms and phrases, when used in this Section, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning.

Abandonment. Means "abandonment" as defined by the Texas Railroad Commission and includes the plugging of the well and the restoration of any well site as required by this chapter.

All-Weather Hard Surface. Means a permanent surface that as a minimum is a base course constructed in accordance with the General Design Standards for residential roadways, such that it meets the requirements of the International Fire Code, be at least twenty-four (24) feet wide, have an overhead clearance of fourteen (14) feet, drains appropriately, remains water resistant, is free of litter, debris, weeds, grass or other objectionable materials or objects and is visibly dust free. Crushed rock or gravel compacted to withstand vehicles of 80,000 lbs may be acceptable with City approval.

Ambient Noise Level. Means the all encompassing noise level associated with a given environment, being a composite of sounds from all sources at the location, constituting the normal or existing level of environmental noise at a given location.

Base Flood. Means the flood having a one (1) percent chance or being equaled or exceeded in any given year that is determined based upon the City of Farmers Branch Master Drainage Study.

Blowout Preventer. Means a mechanical, hydraulic, pneumatic or other device or combination of such devices secured to the top of a well casing, including valves, fittings and control mechanisms connected therewith, which can be closed around the drill pipe, or other tubular goods which completely close the top of the casing and are designed for preventing blowouts.

Building. Means any structure for the support, shelter and enclosure of persons, animals, chattels, or movable property of any kind.

Cathodic Protection. Means an electrochemical corrosion control technique accomplished by applying a direct current to the structure that causes the structure potential to change from the corrosion potential to a protective potential in the immunity region. The required cathodic protection is supplied by sacrificial anode materials or by an impressed current system.

City. Means the City of Farmers Branch, Texas.

City Attorney. Means the City Attorney of the City of Farmers Branch, Texas.

City Code. Means the Code of Ordinances of the City of Farmers Branch, Texas.

City Council. Means the governing or legislative authority of the City of Farmers Branch, Texas.

City Manager. Means the City Manager of the City of Farmers Branch, Texas.

Closed Mud or Loop System. Means a series of tanks including filters separators and shakers on the discharge side of the drilling process that contains by-products of drilling such as cuttings and earthen materials to contain the byproducts and recycle useable materials for reuse in the drilling process. Steel bins are used to collect all drilling waste. All wells in City must use this drilling system.

Commission. Means the Texas Railroad Commission.

Completion of drilling, re-drilling and re-working. Means the date the well is capable of producing .

Day. Means a calendar day.

Daytime. Means the period from 7:00 a.m. to 7:00 p.m.

Derrick. Means any portable framework, tower, mast and/or structure which is required or used in connection with drilling, working, re-drilling or re-working a well for the production of gas.

Development Review Committee (DRC). Is an internal staff review committee that includes, but is not limited to, representatives of the Departments of Environmental Services, Public Works, Community Services, Fire, Engineering, Parks and Recreation.

Drill Site. Means the premises used during the drilling, working, re-drilling or re-working of a well or wells located there and subsequent life of a well or wells or any associated operation.

Drilling. Means the digging or boring of a new well for the purpose of exploring for, developing or producing gas or other hydrocarbons, or for the purpose of injecting gas, water or any other fluid or substance into the earth.

Drilling Equipment. Means the derrick, together with all parts of and appurtenances to such structure, every piece of apparatus, machinery or equipment used or erected or maintained for use in connection with drilling. Includes all peripheral equipment related to the exploration and distribution of natural gas, including natural gas compressor stations.

Emergency Response Plan. Means a plan put in place to deal with emergency situations that may occur at the site during all stages of the drilling and production process.

Exploration. Means geologic or geophysical activities, including seismic surveys, related to the search for gas or other subsurface hydrocarbons.

Federal Emergency Management Agency ("FEMA"). Means the federal agency which administers the National Flood Insurance Program.

Fire Department. Means the Fire Department of the City of Farmers Branch, Texas.

Floodplain. Means the land within a community subject to a 1% or greater chance of flooding in any given year (one-hundred year flood level).

Fracturing, Fracing or Frac. Means the process of fracture stimulating a rock feature through the injection of a fluid into a well causing a pressure increase that expands existing fractures in the rock formation.

Gas. Means any fluid, either combustible or noncombustible, which is produced in a natural state from the earth and which maintains a gaseous or rarefied state at standard temperature and pressure conditions and/or the gaseous components or vapors occurring in or derived from petroleum or natural gas.

Gas Compressor. Means any machinery or equipment needed to adjust the pressure of gas being extracted from the earth or transported through a pipeline. All Gas Compressor stations shall be completely enclosed and substantially soundproofed.

Gas Well. Means any well drilled, to be drilled, or used for the intended or actual production of natural gas.

Nighttime. Means the period between 7:00 p.m. and 7:00 a.m.

Operation Site. Means the area used for development and production and all operational activities associated with gas after drilling activities are complete.

Operator. Means, for each gas well, the person listed on the Texas Railroad Commission's Form W-1 of Form P-4 for a gas well that is, or will be actually in charge and in control of drilling, maintaining, operating, pumping or controlling any well, including, without limitation, a unit operator. If the operator, as herein defined, is not the lessee under a gas lease of any premises affected by the provisions of this Section, then such lessee shall also be deemed to be an operator. In the event that there is no gas lease relating to any premises affected by this Section, the owner of the fee mineral estate in the premises shall be deemed an operator.

Permit. Means any written license granted by the City for the exploration, development and production of gas wells issued pursuant to the rules and regulations of this Section.

Person. Means both the singular and the plural and means a natural person, a corporation, association, guardian, partnership, receiver, trustee, administrator, executor, and fiduciary or representative of any kind.

Planning and Zoning Commission. Means the Planning and Zoning Commission of the City of Farmers Branch, Texas.

Production. Means the period between completion of drilling and the abandonment of the well.

Property Owner. Means the owner of the surface property.

Protected Use. Means a residence, religious institution, public building, hospital building, school or public park.

Public Building. Means any building which is owned, leased, primarily used and/or primarily occupied by a school district or municipal, county, state or federal government, or any subdivision or agency of the school district or municipal, county, state or federal government.

Public Park. Means any park, playground, recreation center, or other similar recreation or park facility owned by a school district or municipal, county, state or federal government.

Public Works. Means the Department of Public Works for the City of Farmers Branch, Texas.

Re-Drill. Means the re-completion of an existing well by deepening or sidetrack operations extending more than one hundred fifty (150) feet from the existing well bore.

Religious Institution. Means any church, mosque, synagogue or temple as defined in the City of Farmers Branch, Texas, Comprehensive Zoning Ordinance.

Residence. Means any building, or portion thereof, which is designed for use for residential purposes.

Re-Working. Means re-completion or re-entry of an existing well within the existing bore hole or by deepening or sidetrack operations which do not extend more than one hundred fifty (150) feet from the existing well bore, or replacement of well liners or casings.

Right-of-Way. Means any area of land within the City that is acquired by, dedicated to, or claimed by the City in fee simple, by prescriptive right or other interest and that is expressly or impliedly accepted or used in fact or by operation of law as public roadway, sidewalk, alley, utility, drainage, or public access easement or used for the provision of governmental services or functions. The term includes the area on, below, and above the surface of the public right-of-way. The term applies regardless of whether the public right-of-way is paved or unpaved.

Right-of-Way Maintenance and Repair Agreement. Means a written agreement obligating the operator to repair damage, excluding ordinary wear and tear, if any, including but not limited to public streets, sidewalks, pathways, trails and bridges, caused by the operator or its employees, agents, contractors, subcontractors, or representatives in the performance of drilling or production of gas wells authorized by the City.

School. Means a public, private or denominational school as defined in the City of Farmers Branch, Texas, Comprehensive Zoning Ordinance.

Street. Means any public thoroughfare dedicated to the public and not designated as an alley.

Tank. Means a container, covered or uncovered, used in conjunction with the drilling or production of gas or other hydrocarbons for holding of storing fluids.

Technical Advisor. Means such person(s) familiar with the gas industry or the law as it relates to gas matters who may be retained from time to time by the City.

Thoroughfare Plan. Means the plan adopted by the City Council that provides the general location and designation for the street system in Farmers Branch.

Planning Division. Means the Planning Division of the City of Farmers Branch, Texas.

Well. Means any single hole or bore to any horizon, formation, or strata, for the purpose of producing gas, liquid hydrocarbon, brine water or sulphur water, or for use as an injection well for secondary recover, disposal or production of gas, or other hydrocarbons from the earth.

Sec.34.503. City Oversight.

- A) Authority. The City Manager, or his designee, shall have the authority to enter and inspect any premises covered by these provisions to determine compliance with the provisions of this Section and all applicable laws, rules, regulations, standards or directives of the City or State. Failure of any person to permit access to the City

Manager, or his designee, shall constitute a violation of this Section. Additionally, the City Manager, or his designee, and other city officials shall have the authority to issue any orders or directives required to carry the intent and purpose of this Section and its provisions. The City Manager or his designee shall have the authority to request and receive copies of any records, including any records sent to the Texas Railroad Commission, copies of logs, reports and the like, relating to the status or condition of any permitted well necessary to establish and determine compliance with the applicable permit. Failure to provide copies of any such requested material shall be deemed a violation of this Section.

- B) **Right of Entry.** The City Manager, Texas Railroad Commission, TCEQ, EPA, or their designated representative(s), shall have the right to enter the premises of any property to determine whether the owner or operator is complying with all requirements of local, state, and federal regulation. The owner or operator shall provide timely access, within 30 minutes of verbal request in cases of an emergency and within two (2) hours in all other cases, provided that the City Manager, Texas Railroad Commission, TCEQ, EPA, or their designated representative(s) comply with all safety requirements imposed on the operator and or its agents by any and all state and/or federal authorities, to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties. The City of Farmers Branch shall indemnify and hold owner and operator harmless from any cause of action resulting from the gross negligence or willful misconduct of the City Manager or their designated representative(s) and/or accidental damage caused due to the actions of the City Manager or their designated representative(s). Failure to provide timely access shall constitute a violation of this ordinance

Sec. 34.504. Operator's Agent.

Every operator of any well shall designate an agent, who is a resident of the State of Texas, upon whom all orders and notices provided in this Section may be served in person or by U.S. mail. Every operator designating such agent shall within ten (10) days notify the City in writing of any change in such agent or such mailing address unless operations within the City are discontinued. Failure to do so shall be deemed a violation of this chapter.

Secs. 34.505–34.509. Reserved.

APPLICATIONS AND PERMITS

Sec. 34.510. Seismic Surveys.

(A) A City permit shall be required for seismic surveys. The requirements for seismic surveys within the City limits of Farmers Branch are specified in Ordinance 2917 and outlined in more detail in Section 34. 400.

(B) Under no circumstances may explosive charges, including, but not limited to, the use of dynamite, be used in any way related to the preparation and/or operation of conducting a seismic survey.

Sec. 34.511. Gas Well Permit Requirements.

Obtaining a Gas Well Permit is a two-step process. The first step is the submittal and approval of a Specific Use Permit (SUP) only within the designated zoning districts identified in the Comprehensive Zoning Ordinance. The second step is the submittal and approval of a Gas Well Permit as outlined the following subsections:

(A) A person wanting to engage in and/or operate in gas production activities shall apply for and obtain a Gas Well Permit under this Section. It shall be unlawful for any person acting either for himself or acting as an agent, employee, independent contractor, or servant for any person to drill any well, assist in any way with the site preparation, re-working, fracturing or operation of any such well or to conduct an activity related to the production of gas without first obtaining a gas well permit issued by the City in accordance with this Section. Such activities include, but are not limited to, drilling, working, re-drilling, re-working, initial site preparation, operation, construction of rigs or tank batteries, fracturing and pressurizing.

(B) The operator must apply for and obtain a Gas Well Permit for the drilling, re-drilling, deepening, re-entering, activating or converting of each well. The operator may apply for a "blanket" permit for more than one (1) well if multiple wells are located on the same tract of land, however a separate Gas Well Permit fee for each well will be required with the submittal of the blanket permit request. Each new well established at the ground surface will be considered a new gas well location.

An existing gas well permit shall not constitute authority for the re-entering and drilling of an abandoned well. An operator shall obtain a new well permit in accordance with the provisions of this chapter if the operator is re-entering and drilling an abandoned well.

(C) When a gas well permit has been issued to the operator for the drilling, re-entering, activating or converting of a well, such gas well permit shall constitute sufficient authority for drilling operation, production gathering or production maintenance, repair, re-working, testing, plugging and abandonment of the well and/or any other activity associated with mineral exploration at the site of such well. An amended gas well permit shall be obtained before such

well may be modified for purposes of re-drilling, deepening or converting such well to a depth or use other than that set forth in the then current permit for such well.

(D) Any person who intends to re-work a permitted well using a drilling rig, or to fracture stimulate a permitted well after initial completion, shall give written notice to the City Manager or his designee no less than ten (10) days before the activities begin. The notice must identify where the activities will be conducted and must describe the activities in detail, including, but not limited to, whether explosive charges will be used, the duration of the activities and the time the activities will be conducted. The notice must also provide the address and twenty-four (24) hour telephone number of the person conducting the activities. The person conducting the activities shall post a sign on the property giving the public notice ten (10) days in advance of the fracturing activities. The sign shall comply with the requirements of the City of Farmers Branch.

The Gas Well Permits required by this Section are in addition to and are not in lieu of any permit which may be required by any other provision of the City Code or by any other governmental agency. A building permit will be required for any and all structures located or constructed the site.

(E) No Gas Well Permit shall be issued for any well to be drilled within a public park or other city owned land without the prior consent of the City Council by resolution. In some cases, a public referendum may be required before allowing drilling activity on public parkland. The City Council shall review the insurance and security requirements on an individual basis prior to issuing the permit.

(F) Locations and Setbacks for Gas Well Permits

- (1) Gas well drilling and production, including the location of a gas compressor station shall only be considered upon the approval of a Specific Use Permit on property where such uses are permitted by the Comprehensive Zoning Ordinance.

It shall be unlawful to drill, re-drill, deepen, re-enter, activate or convert any well, the center of which, at the surface of the ground, is located:

- a. Within six hundred (600) feet from any existing playgrounds, athletic fields, swimming pools, water slides and playgrounds, concession stands, pavilions or picnic areas within a public park, or any other park facilities or similar improvements as determined by the City Manager or his designee.
- b. Within six hundred (600) feet from any existing residence, religious institution, public building, hospital building or school or for which a building permit has been issued prior to the date of the application for a Gas Well Permit is filed with the City.
- c. Within three hundred (300) feet from any existing retail or commercial building (including parking structures) or for which a building permit has been issued prior to the date of the application for a Gas Well Permit is filed with the City.

- d. Within two hundred (200) feet from any existing commercial or industrial building not intended for human occupancy (such as a pumphouse or switching station) or for which a building permit has been issued prior to the date of the application for a Gas Well Permit is filed with the City.
 - e. Within three hundred (300) feet of any existing active water well.
 - f. Within one hundred (100) feet of any property line or right of way. Replatting may be necessary to meet this requirement.
 - g. Within two hundred (200) feet from any river, creek, stream or existing body of water.
 - h. The measurement of all distances shall be calculated from the proposed well bore, in a straight line, without regard to intervening structures or objects, to the closest point of the object listed in items "a. through "d" above. The above calculations shall be prepared by a Registered Professional Land Surveyor.
- (2) Tank batteries, separators, fracing water ponds, and gas lift compressors shall be located at least three hundred (300) feet from any playground, athletic field, picnic area within a public park, or from any residence, religious institution, public building, hospital building or school, or any other building used, or designed for and intended to be used, for human occupancy, for which a building permit has been issued on the date of the application for a Gas Well Permit is filed. The distance shall be calculated from the closest tank batteries, separators or gas lift compressors, in a straight line, without regard to intervening structures or objects, to the closest part of the playground, athletic field, picnic area, residence, religious institution, public building, hospital building or school.
- (3) Gas compressors shall be totally enclosed. Sufficient soundproofing shall be installed such that no gas compressor shall produce a sound level greater than 5 dB (a) when measured at a distance of three hundred (300) feet from the compressor. Enclosed gas compressors shall be located at least:
- a. Six hundred (600) feet from any playground, athletic field, picnic area within a public park, or from any residence, religious institution, public building, hospital building or school;
 - b. Two hundred (200) feet from any nonresidential structure intended for human occupancy; and
 - c. One hundred (100) feet from any nonresidential structure not intended for human occupancy (such as a pumphouse or switching station).

- (4) Notwithstanding the provisions of this Section, wells or compressor stations may be located no closer than three hundred (300) feet from all existing residences that are owned by persons who, in writing (notarized), consent to the request to drill the well if approved by a majority vote of the City Council. Said written consent is required from all property owners within six hundred (600) feet of a proposed well bore prior to an application, and shall be included in the application for Specific Use Permit as submitted to the Planning Division.
- (5) Notwithstanding the provisions of this Section, wells or compressor stations may be located no closer than two hundred (200) feet from all existing retail or commercial structures that are owned by persons who, in writing (notarized), consent to the request to drill the well if approved by a majority vote of the City Council. Said written consent is required from all property owners within three hundred (300) feet of a proposed well bore prior to an application, and shall be included in the application for Specific Use Permit as submitted to the Planning Division.
- (6) Notwithstanding the provisions of this Section, new residences may be built no closer than six hundred (600) feet from an existing well or fully enclosed compressor station.
- (7) Notwithstanding the provisions of this Section, new nonresidential buildings intended for human occupancy may be built no closer than two hundred (200) feet from an existing well or existing fully enclosed compressor station.
- (8) Notwithstanding the provisions of this Section, new nonresidential buildings not intended for human occupancy may be built no closer than one hundred (100) feet from an existing well or existing fully enclosed compressor station.
- (G) A Gas Well Permit shall automatically terminate, unless extended, if drilling is not commenced within one-hundred and eighty (180) days from the date of the issuance of the permit. A well permit may be extended by the City Manager or his designee for an additional ninety (90) days upon written request by the operator and proof that the regulatory standards of the requested permit for such location have not changed.
- (H) Gas Well Operation Sites proposed in or partially within the one hundred (100) year floodplain must conform to the City floodplain regulations.
- (I) All construction associated with the City's infrastructure, including streets, signage, signals, drainage systems, water systems, sanitary sewer system, lights, landscape and irrigation and sidewalks, must conform to the Public Works Construction Standards published by the North Central Texas Council of Government (NCTCOG) Standard unless superceded by specifications designated in approved permit and associated plans approved by the city.
- (J) By acceptance of any permit issued pursuant to this Section, the operator expressly stipulates and agrees to be bound by and comply with the provisions of this Section. The terms

of this Section shall be deemed to be incorporated in any permit issued pursuant to this Section with the same force and effect as if this Section was set forth verbatim in such permit.

(K) All construction and development within Gas Well site shall comply with all City codes and ordinances, as well as all state and federal regulations and laws.

Sec. 34.512. Gas Well Permit Application and Filing Fees.

(A) Every application for a Gas Well Permit issued pursuant to this Section shall be in writing signed by the operator, or some person duly authorized to sign on his behalf, and filed with the Community Services Department.

(B) Every application shall be accompanied by a permit fee in accordance with the Comprehensive Fee Schedule (see City Code of Ordinances-Appendix A Fee Schedule –Chapter 34) and the standard application fee for a Specific Use Permit as listed on the Planning Division fee schedule. The application shall include the following minimum information:

- (1) The date of the application.
- (2) An accurate legal description of the lease property to be used for the operation site, the parcel and the production unit and name of the geologic formation as used by the Texas Railroad Commission. Property recorded by plat shall reference subdivision, block and lot numbers.
- (3) Map showing proposed transportation route and road(s) for equipment, chemicals or waste products used or produced by the gas operation. All vehicles shall be operated on state arterials whenever capable of being used. Such vehicles shall be operated only on City of Farmers Branch arterials, collectors and local commercial only when it is not possible to use a state arterial to fulfill the purpose for which such vehicle is then being operated.
- (4) All existing transportation routes within the site shall be constructed following the requirements outlined by the City Engineering and Fire Department.
- (5) Proposed well name and well depth.
- (6) Surface owner(s), telephone number(s), fax number(s), physical address(es), and e-mail address(es) of the lease property. Mineral lessee name and address.
- (7) Operator/applicant name, telephone number, fax number, physical address and e-mail address and if the operator is a corporation, the state of incorporation, and if the operator is a partnership, the names and addresses of the general partners.
- (8) Name, telephone number, fax number, physical address and e-mail address of the individual designated to receive notice.

- (9) Name and address of representatives or operator's agent with supervisory authority over all gas operation site activities and a twenty-four (24) hour telephone number.
- (10) Location and description of all improvements and structures within six hundred (600) feet of the well. Such locations and descriptions shall be prepared by a Registered Professional Surveyor.
- (11) A site plan of the proposed operation site showing the location of all improvements and equipment, including the location of the proposed well(s) and other facilities including, but not limited to, tanks, pipelines, compressors, separators and storage tanks or storage sheds. All site plans must include the following criteria:
- a. Site plans shall be submitted on a sheet size of 24" x 36".
 - b. Property boundaries with dimensions and setback lines.
 - c. Location of proposed buildings and structures indicating sizes in square feet.
 - d. The location and intensity of exterior lighting fixtures.
 - e. The location of mechanical equipment.
 - f. The location of outside storage areas.
 - g. Location and dimensions of points of ingress and egress to public streets.
 - h. Location of designated parking, loading, and maneuvering areas.
 - i. A separate landscape plan sheet showing the location, materials and dimensions of all screening improvements as required by Section 35.521.
 - j. On-site waste disposal locations.
 - k. Location of all adjacent property lines, streets, easements on site or immediately adjacent to the site.
 - l. Names of the owners of property immediately adjacent to the operation site.
 - m. City boundaries where applicable.
 - n. Date the drawing was prepared with name, address, and phone number of preparer.
 - o. Location, width and purpose of all existing easements.

- p. North arrow, at a maximum scale of 1:50 immediately adjacent to the operation site.
 - q. All existing street names immediately adjacent to the operation site, with the proper hundred block designation shown.
 - r. Dimensions of all adjacent existing rights-of-way.
 - s. Title block identifying the gas well site location.
 - t. Vicinity location map at 1" = 2000'.
 - u. Zoning classifications or all properties shown on the site plan.
 - v. Location of the 100-year flood limits where applicable.
 - w. The X, Y, and Z (elevation) coordinates (NAD 83 Texas State Plane Coordinate System, North Central Texas FIPS 4202 (feet)) must be labeled for at least two (2) of the perimeter corners.
 - x. A drainage plan prepared in conformance to City criteria.
 - y. Topographic information including contours of at least a two (2) foot interval or better.
 - z. Any information the City may deem appropriate to permit the request
12. Copies of all reports required by the Texas Railroad Commission, specifically including a copy of the approved Texas Railroad Commission Form W-1 and/or P-4.
 13. A signed right-of-way maintenance and repair agreement supplied by the City that provides that the operator shall repair, at his own expense, any damage caused by any activity associated with the preparation, drilling, production and operation of well.
 14. A description and location of all existing and future public utilities required during the drilling and site operations. An electricity usage plan showing the equipment to be powered, the amount of electricity needed, the sources of power (whether generator on site or purchased from a retail electric provider), as well as the approximate location of lines, poles, generators, fuel tanks, and other apparatus necessary for electric power.
 15. A description of the water source to be used during the drilling. All water used on the site must be purchased from the City of Farmers Branch at a rate not to exceed the posted City commercial rate or a local water source approved by the City. All

gas wells within the City shall use a "Closed Mud or Loop" system. No water wells on site shall be allowed to be drilled or existing well used for gas well site use without approval by the City. The Gas Well operator/owner must provide the City Public Works Department notice of at least two business days for any large water request for drilling or fracing. All used fracing water must be contained in closed tanks and removed from the City to an appropriate disposal site meeting all state and federal requirements.

16. A copy of the Storm Water Pollution Prevention Plan (SWPPP) as required by the Texas Railroad Commission, the Texas Commission on Environmental Quality (TCEQ), the United States Environmental Protection Agency (EPA), and/or the City. A copy of the TCEQ Notice of Intent (NOI) shall be submitted to the Community Services Department at least three (3) days prior to the commencement of any onsite activity.
 17. A copy of the determination by the TCEQ of the depth of useable quality ground water. (a copy of the TCEQ Surface Casing Determination Letter will meet this requirement).
 18. Evidence of insurance and security requirements as described in. Section 34.517.
 19. A statement, under oath, signed by the operator or designated representative that the information submitted with the application is, to the best of his knowledge and belief of the operator or designated representative, true and correct.
 20. All required application and permit fees.
 21. A tree survey and preservation plan shall identify all trees that are six (6) inches in caliper or larger on the site.
 22. A copy of a Hazardous Materials Management Plan and additionally, all material safety data sheets (MSDS) for all hazardous materials that will be located, stored, transported and/or temporarily used on the drilling site shall be provided to the City Manager or his designee and the Fire Department.
 23. A copy of a Spill Prevention, Control, and Countermeasure Plan; (SPCC) for the well site as required by 40 Code of Federal Regulations Part 112 that details the equipment, workforce, procedures, and steps to prevent, control, and provide adequate countermeasures to a discharge.
 24. A copy of the operator's Emergency Response Plan.
 25. A copy of the Specific Use Permit (SUP) allowing Gas Wells or a Gas Compressor Station at this site.
- (C) Building permit required.

After obtaining both a Specific Use Permit (SUP) and a Gas Well Permit, the owner/operator of the site is eligible to begin development of the gas well site provided all appropriate building, plumbing, and electrical permits have been also approved.

- (1) No building or structure regulated by the current Code adopted by the City shall be erected, constructed, enlarged, altered, repaired, moved, improved, removed, converted or demolished unless a separate permit for each building or structure has first been obtained from the Building Inspections Department.
- (2) It shall be the responsibility of any person, firm or corporation, upon submittal of an application for a building permit for work regulated by the current Code adopted by the City, to register as a general contractor with the City. Work regulated includes, but is not limited to, construction of gates, fencing, plumbing, irrigation, electricity, roadways, entrances, compressors, flow lines, pipelines, gathering lines, tank batteries and buildings. Such registration shall be upon forms supplied by the Building Inspections Department and shall become null and void on December 31 of each year. An appropriate fee for registration shall be assessed in accordance with the City fee schedule.
- (3) A subdivision plat may be required. Any subdivision of land must adhere to the general rules and regulations governing platting and subdivision within the jurisdiction of the City of Farmers Branch.

Sec. 34.513. Permitting Process.

(A) Gas drilling operation, production, and gas compressor stations shall be authorized only upon the approval of a Specific Use Permit and Gas Well Permit. The Specific Use Permit shall be reviewed by the Planning and Zoning Commission and approved by the City Council. Gas Well Permits shall be approved administratively by City Staff provided, however that no such action may be taken until:

- (1) Application for a Specific Use Permit (SUP) shall be submitted and duly filed by the property owner or authorized agent upon the forms prescribed by the City, and the filing fee as prescribed from time to time by the City Council shall be paid in full; and
- (2) The SUP proposal or application has been referred to the Planning and Zoning Commission for regular notice and public hearing, and its recommendation made to the City Council; and
- (4) Notice for the SUP has been given and a public hearing has been held in accordance with the standards outlined in the comprehensive Zoning Ordinance and in relation to such proposal before the City Council, at which time parties in interest and citizens have had an opportunity to be heard.

- (5) The approval of the SUP for gas drilling operation and production shall be in accordance with all other applicable rules, regulations and requirements of the Comprehensive Zoning Ordinance.

Sec.34.514. Amended Gas Well Permits.

(A) An amended permit may be issued for, but not limited to, the following changes in drill and/or operational site activities:

- (1) Re-drilling
- (2) Deepening beyond one-hundred fifty (150) feet of the permitted depth
- (3) Site access
- (4) Locations and/or quantities of equipment as determined by the City Manager or his designee
- (5) Locations and/or number of drilling fluid or other types of pits
- (6) Locations and/or number of buildings and structures

(B) Applications for amended permits shall be in writing, shall be signed by the operator, and shall include the following:

- (1) A Gas Well Permit fee in accordance with the Comprehensive Fee Schedule (see Chapter 34 of the City Code of Ordinances-Appendix A Fee Schedule)
- (2) A description of the amendments
- (3) Any changes to the information submitted with the application for existing permit (if such information has not previously been provided to the City)
- (4) Such additional information as is reasonably necessary to demonstrate compliance with the applicable permit
- (5) Such additional information as is reasonably necessary to prevent imminent destruction of property or injury to persons
- (6) An amended site plan

(C) All applications for amended Gas Well Permits shall be filed with the Community Services Department in the manner prescribed in Section 34.512.

(D) All applications for amended Gas Well Permits shall be approved in the manner prescribed in Section 34.513.

Sec. 34.515. Suspension or Revocation of Gas Well Permits.

(A) If an operator (or its officers, employees, agents, contractors, subcontractors or representatives) fails to comply with any requirement of a permit (including any requirements incorporated by reference as part of the permit), the City shall give written notice to the operator specifying the nature of the failure and giving the operator a reasonable time to cure, taking into consideration the nature and extent of the failure, the extent of the efforts required to cure, and the potential impact on the health, safety and welfare of the community. The City of Farmers Branch shall determine the reasonable period of time for correcting or curing the problem or failure.

(B) If the operator fails to correct the noncompliance within the specified time designated by the City, the City may suspend or revoke the permit pursuant to the provisions of this Section.

(C) No person shall carry on any operations performed under the terms of the permit issued under this Section during any period of any permit suspension or revocation or pending a review of the decision or order of the City in suspending or revoking the permit. Nothing contained herein shall be construed to prevent the necessary, diligent and bona fide efforts to cure and remedy the default or violation for which the suspension or revocation of the permit was ordered for the safety of persons or as required by the Texas Railroad Commission.

(D) If the operator does not cure the noncompliance within the time specified in this Section, the City, upon written notice to the operator, may notify the Commission and request that the Texas Railroad Commission take any appropriate action.

An operator, within ten (10) days of the date of the decision of the City in writing to suspend or revoke a permit, may file an appeal to the Board of Adjustment under the provisions outlined in this Section pursuant to Section 18.

Sec. 34.516. Periodic Reports.

(A) The operator shall notify the City Manager or his designee of any changes to the following information within ten (10) days after the change occurs:

- (1) The name, physical address, telephone number, and fax number, of the operator.
- (2) The name, address, and telephone number of the person designated to receive notices from the City (which person must be a resident of Texas that can be served in person or by registered or certified mail).
- (3) The operator's emergency action response plan (including "drive-to-maps" from public rights-of-way to each drill site).

(B) The operator shall notify in writing the City Manager or his designee of any change to the name, address, and twenty-four (24) hour phone number of the person(s) with supervisory authority over drilling or operations activities within one (1) business day.

(C) The operator shall provide a copy of any "incident reports" or written complaints submitted to the Texas Railroad Commission and a copy to the City within thirty (30) days after the operator has notice of the existence of such reports or complaints.

(D) Beginning on December 31st after each well is completed, and continuing on each December 31st thereafter until the operator notifies the City Manager or his designee that the well has been abandoned and the site restored, the operator shall submit a written report to the Building Inspector identifying any changes to the information that was included in the application for the applicable permit that have not been previously reported to the City.

(E) Each year an Annual Gas Well Inspection Fee shall be paid by the owner/operator for monitoring and inspection visits by the City. This fee shall be in accordance with the Comprehensive Fee Schedule (see Chapter 34 of the City Code of Ordinances-Appendix A – Fee Schedule).

Sec. 34.517. Bond, Letter of Credit, Indemnity and Insurance.

General Requirements

(A) The operator shall be required to:

- (1) Comply with the terms and conditions of this chapter and the permit issued hereunder.
- (2) Promptly clear drill and operation sites of all litter, trash, waste and other substances used, allowed or occurring in the operations, and after abandonment or completion grade, level and restore such property to the same surface conditions as nearly as possible as existed before operations as determined by the City Manager or his designee.
- (3) Promptly pay all fines, fees, penalties and other assessments imposed due to breach of any terms of the permit.
- (4) Promptly restore to its former condition any public property damaged by the gas operation.

Indemnification and Express Negligence Provisions

(B) Operators shall sign each permit and the City shall retain a signed original. Each such permit issued by the City shall include the following language:

The operator hereby agrees to protect, indemnify and hold harmless the City, their officers, agents and employees (hereinafter individually and collectively referred to as "Indemnitees"), from and against suits, actions, claims, losses, liability or damage of any character, and from and against costs and expenses, including, in part, attorney fees

incidental to the defense of such suits, actions, claims, losses damages or liability on account of injury, disease, sickness, including death, to any person or damage to property including, in part, the loss of use resulting therefrom, arising from any negligent act, error or omission of the operator, its officers, employees, servants, agents, contactors or subcontractors, or anyone else under the operator's direction and control, and arising out of, resulting from, or caused by the performance or failure of performance of any work or services called for by this permit, or from conditions created by the performance or non-performance of said work or services performed by the operator under the permit. In the event one or more of the Indemnitees is determined by a court of law to be jointly or derivatively negligent or liable for such damage or injury, the operator shall be obligated to indemnify Indemnitee(s) as provided herein on a proportionate basis in accordance with the final judgment, after all appeals are exhausted, determining such joint or derivative negligence or liability.

(C) Acceptance and approval of the final plans by the City shall not constitute nor be deemed a release of this responsibility and liability of the operator, its employees, contractors, subcontractors, associates, agents and consultants for the accuracy or competency of their designs, working drawings and specifications, or other documents and work; nor shall such approval be deemed to be an assumption of such responsibility by the City for any defect in the designs, working drawings and specifications, or other documents prepared by the operator, its employees, contractors, subcontractors, associates, agents and consultants.

Bond, Irrevocable Letter of Credit

(D) Prior to the issuance of a Gas Well Permit the operator shall provide the City Manager or his designee with a security instrument in the form of a bond or irrevocable letter of credit as follows:

(E) *Bond.* A bond shall be executed by a reliable bonding or insurance institution authorized to do business in Texas, acceptable to the City. The bond shall become effective on or before the date the Gas Well Permit is issued and shall remain in force and effect for at least a period of one hundred fifty (150) days after the expiration of the permit term or until the well is plugged and abandoned and the site is restored, whichever occurs last. The operator shall be listed as principal and the instrument shall run to the City, as obligee, and shall be conditioned that the operator will comply with the terms and regulations of this Section and the City. The original bond shall be submitted to the City Manager or his designee with a copy of the same provided to the City Secretary.

Letter of Credit. A demand letter of credit shall be issued by a reliable bank authorized to do business in Texas and shall become effective on or before the date the permit is issued. The letter of credit shall remain in force and effect for at least a period of six (6) months after the expiration of the permit term or until the well is plugged and abandoned and the site is restored, whichever occurs last. The City shall be authorized to draw upon such letter of credit to recover any fines, penalties or costs assessed under this Section. Evidence of the execution of a letter of credit shall be submitted to the City by submitting an original signed letter of credit from the banking institution with a copy of the same provided to the City Secretary.

(F) The principal amount of any security instrument shall be fifty thousand dollars (\$50,000.00) for any single well or \$50,000 Blanket for more than one well, but subject to minimum of \$15,000 for each well drilled and/or placed into production. After three (3) wells have been drilled, each additional drilled well will require an incremental bond of \$15,000 per well in addition to the original \$50,000 Blanket Bond. The aggregate amount of an operator's bond and/or letter of credit for all wells operated by that Operator shall not be required to exceed one hundred fifty thousand dollars (\$150,000.00). Provided, however, if at any time after no less than a fifteen (15) day written notice to the operator and a public hearing, the City Council shall deem any operator's bond or letter of credit to be insufficient, it may require the operator to increase the amount of the bond or letter of credit up to a maximum of two-hundred fifty thousand dollars (\$250,000.00) per well.

(G) Whenever the City Manager or his designee finds that a default has occurred in the performance of any requirement or condition imposed by this Section, a written notice shall be given to the operator. Such notice shall specify the work to be done, the estimated cost and the period of time deemed by the City Manager or his designee to be reasonably necessary for the completion of such work. After receipt of such notice, the operator shall within the time therein specified, either cause or require the work to be performed, or failing to do so, shall pay over to the City one-hundred twenty-five percent (125%) of the estimated cost of doing work as set forth in the notice. In no event, however, shall the cure period be less than thirty (30) days unless the failure presents a risk of imminent destruction of property or injury to persons or unless the failure involves the operator's failure to provide periodic reports as required by this chapter. The City shall be authorized to draw against any irrevocable letter of credit or bond to recover such amount due to the Operator. Upon receipt of such monies, the City shall proceed by such mode as deemed convenient to cause the required work to be performed and completed, but no liability shall be incurred other than for the expenditure of said sum in hand. In the event that the well has not been properly abandoned under the regulations of the Texas Railroad Commission, such additional money may be demanded from the operator as is necessary to properly plug and abandoned the well and restore the drill site in conformity with the regulations of this Section.

In the event the operator does not cause the work to be performed and fails or refuses to pay over to the City the estimated cost of the work to be done as set forth in the notice, or the issuer of the security instrument refuses to honor any draft by the City against the applicable irrevocable letter of credit or bond the City may proceed to obtain compliance and abate the default by way of civil action against the operator, or by criminal action against the operator, or by both such methods.

(H) When the well or wells covered by said irrevocable letter of credit or bond have been properly abandoned in conformity with all regulations of this Section, and in conformity with all regulations of the Texas Railroad Commission and notice to that effect has been received by the City, of upon receipt of a satisfactory substitute, the irrevocable letter of credit or bond issued in compliance with these regulations shall be terminated and cancelled.

Insurance

(I) In addition to the bond or letter of credit required pursuant to this Section, the operator shall carry a policy or policies of insurance issued by an insurance company or companies authorized to do business in Texas. In the event such insurance policy or policies are cancelled, the permit shall be suspended on such date of cancellation and the operator's right to operate under such permit shall immediately cease until the operator files additional insurance as provided herein.

(J) General requirements applicable to all policies:

- (1) The City, its officials, employees, agents and officers shall be endorsed as an "additional insured" to all policies except employer's liability coverage under the operator's workers compensation policy.
- (2) All policies shall be written on an occurrence basis except for environmental pollution liability (seepage and pollution coverage) and excess or umbrella liability, which may be on a claims-made basis.
- (3) All policies shall be written by an insurer with an A-: VIII or better rating by the most current version of the A.M. Best Key Rating Guide or with such other financially sound insurance carriers acceptable to the City.
- (4) No deductibles will apply to City as additional insured.
- (5) Certificates of insurance shall be delivered to the City Secretary, City of Farmers Branch, 13000 Wm. Dodson Parkway, Farmers Branch, Texas 75381-9010, evidencing all the required coverage's, including endorsements, prior to the issuance of a permit.
- (6) All policies shall be endorsed with a waiver of subrogation providing rights of recovery in favor of the City.
- (7) Any failure on part of the City to request required insurance documentation shall not constitute a waiver of the insurance requirement specified herein.
- (8) Each policy shall be endorsed to provide the City a minimum of thirty (30) days notice of cancellation, non-renewal, and/or material change in policy terms or coverage.
- (9) During the term of the permit, the operator shall report, in a timely manner, to the City any known loss occurrence which could give rise to a liability claim or lawsuit or which could result in a property loss.
- (10) Upon request, certified copies of all insurance policies shall be furnished to the City.

(K) *Standard Commercial General Liability Policy.* This coverage must include premises, operations, blowout or explosion, products, completed operation, sudden and accidental pollution, blanket contractual liability, underground resources damage, broad form property damage, independent contractors protective liability and personal injury. This coverage shall be a minimum combined limit of one million dollars (\$1,000,000.00) per occurrence location for bodily injury and property damage.

(L) *Excess or Umbrella Liability.* Ten million dollars (\$10,000,000.00) coverage in excess of the operator's environmental pollution liability (EPL) policy. Coverage must include an endorsement for sudden or accidental pollution. If seepage and pollution coverage is written on a "claims made" basis, the operator must maintain continuous coverage and purchase extended period insurance when necessary.

(M) *Environmental Pollution Liability Coverage.* Operator shall purchase and maintain in force for the duration of the permit, insurance for environmental pollution liability applicable to bodily injury, property damage, including loss of use or damaged property or of property that has not been physically injured or destroyed; cleanup costs; and defense, including costs and expenses incurred in the investigation, defense or settlement of claims; all in connection with any loss arising from the insured site. Coverage shall be maintained in an amount of at least one million dollars (\$1,000,000.00) per loss, with an annual aggregate of at least one million dollars (\$1,000,000.00).

1. Coverage shall apply to sudden and accidental pollution conditions resulting from the escape or release of smoke, vapors, fumes, acids, alkalis, toxic chemicals, liquids or gases, waste material or other irritants, contaminants or pollutants.

The operator shall maintain continuous coverage and shall purchase extended coverage period insurance when necessary. The extended coverage period insurance must provide that they retroactive date applicable to coverage under the policy precedes the effective date of the issuance of the permit by the City.

(N) *Control of Well.* The policy should cover the cost of controlling a well that is out of control, re-drilling or restoration expenses, seepage and pollution damage as first party recovery for the operator and related expenses, including, but not limited to, loss of equipment, experts and evacuation of residents. Five million dollars (\$5,000,000.00) per occurrence/no aggregate, if available, otherwise an aggregate of ten million dollars (\$10,000,000.00). Five-hundred thousand dollars (\$500,000.00) sub-limit endorsement may be added for damage to property for which the operator has care, custody and control.

(O) *Workers Compensation and Employers Liability Insurance.* Workers compensation benefits shall be Texas statutory limits. Employers' liability shall be a minimum of five-hundred thousand dollars (\$500,000.00) per accident. Such coverage shall include a waiver of subrogation in favor of the City and provide coverage in accordance with applicable state and federal laws.

(P) *Automobile Liability Coverage.* Combined single limit of one million dollars (\$1,000,000.00) per occurrence for bodily injury and property damage. Coverage must include all owned, hired and not-owned automobiles.

(Q) *Certificates of Insurance.* The company must be admitted or approved to do business in the State of Texas, unless the coverage is written by a Surplus Lines insurer. The insurance set forth by the insurance company must be underwritten on forms that have been approved by the Texas State Board of Insurance or Insurance Services Office (ISO), or an equivalent policy form acceptable to the City, with the exception of environmental pollution liability and control of well coverage. Sets forth all endorsements and insurance coverage according to requirements and instructions contained herein. Shall specifically set forth the notice of cancellation, termination, or change in coverage provisions to the City. All policies shall be endorsed to read, "This policy will not be cancelled or non-renewed without thirty (30) days advance written notice to the owner and the City except when this policy is being cancelled for non-payment of premium, in which case ten (10) days advance written notice is required." Original endorsements affecting coverage required by this section shall be furnished with the certificates of insurance.

(R) *Notice.* The individual designated to receive notice shall be a resident of Texas upon whom all orders and notices provided in this Section may be served in person or by registered or certified mail. Every operator within ten (10) days notify the City Manager or his designee in writing of any change in such agent or mailing address unless operations in the City are discontinued and abandonment is completed.

Secs. 34.518–34.519. Reserved.

TECHNICAL REGULATIONS

Sec.34.520. On Site Technical Regulations

(A) *Abandoned Wells* – All wells shall be abandoned in accordance with the rules or the Texas Railroad Commission; however, all well casings shall be cut and removed to a depth of at least ten (10) feet below the surface unless the surface owner submits a written agreement otherwise. No structures shall be built over an abandoned well. A well marker, with well number displayed on it must be welded to the top of the well pipe cap.

(B) *Blowout Prevention* – In all cases, blowout prevention equipment shall be used on all wells being drilled, worked-over or in which tubing is being changed. Protection shall be provided to prevent blowout during gas operations as required by and in conformance with the requirements of the Texas Railroad Commission and the recommendations of the American Petroleum Institute (API). The operator must equip all drilling wells with adequate blowout preventers, flow lines and valves commensurate with the working pressures involved as required by the Texas Railroad Commission. The ram-type blowout preventers, valves and manifolds shall be pressure tested as follows: 1) at the time of installation; 2) whenever any seal subject to test pressure is broken; 3) following related repairs and 4) at thirty (30) day intervals thereafter.

(C) *Chemical and Materials Storage* – All chemicals and/or hazardous materials shall be stored in such a manner as to prevent, contain, and facilitate rapid remediation and cleanup of any accidental spill, leak, or discharge of a hazardous material. Operator shall have all material safety data sheets (MSDS) for all hazardous materials on site. All applicable federal and state regulatory requirements for the proper labeling and storage of such containers shall be followed. Appropriate pollution prevention actions shall be required and include, but are not limited to, chemical and materials raised from the ground (e.g. wooden pallets), bulk storage, installation and maintenance of secondary containment systems, and protection from storm water and weather elements.

(D) *Compliance* – Operator shall comply at all times with all applicable federal, state and City requirements.

(E) *Discharge* – No person shall place, deposit, discharge, any oil, naphtha, petroleum, asphalt, tar, hydrocarbon substances or any refuse including wastewater or brine from any gas operation or the contents of any container used in connection with any gas operation in, into, or upon any public rights-of-way, alleys, streets, lots, storm drain, ditch, sewer, sanitary drain or any body of water or any private or public property in the City.

(F) *Drill Stem Testing* – All open hole formation or drill stem testing shall be done during daylight hours. Drill stem tests may be conducted only if the well effluent during the test is produced through an adequate gas separator to storage tanks and the effluent remaining in the drill pipe at the time the tool is closed is flushed to the surface by circulating drilling fluid down the annulus and up the drill pipe.

(G) *Drilling Fluids* – Low toxicity glycols, synthetic hydrocarbons, polymers and esters shall be substituted for conventional oil-based drilling fluids.

(H) *Drilling Notice* – The operator shall provide forty-eight (48) hour notice to the City Manager or his designee before the start of drilling operations.

(I) *Drip Pans and Other Containment Devices* – Drip pans and other containment devices shall be placed or installed underneath all tanks, containers, pumps, lubricating oil systems, engines, fuel and chemical storage tanks, system valves, connections, and any other areas or structures that could potentially leak, discharge, or spill hazardous liquids, semi-liquids or solid waste materials.

(J) *Dust, Vibration and Odors* – All drilling and production operations shall be conducted in such a manner as to minimize, so far as practicable, dust, vibration or noxious odors, and shall be in accordance with the best accepted practices incident to drilling for the production of gas and other hydrocarbon substances. All equipment used shall be so constructed and operated so that vibrations, dust, odor or other harmful or annoying substances or effects will be minimized by the operations carried on at any drilling or production site or from anything incident thereto, to the injury or annoyance of persons living in the vicinity; nor shall the site or structures thereon be permitted to become dilapidated, unsightly or unsafe. Proven technological improvements as identified by the City Manager or his designee in industry standards of drilling and production in this area may be adopted as they become available if capable of reducing factors of dust, vibration and odor.

(K) *Electric Lines* – All electric lines shall be located in a manner compatible to those already installed in the surrounding area or subdivision.

(L) *Electric Motors* – Only electric prime motors shall be permitted for the purpose of pumping wells. No electric power shall be generated on location. All electrical installations and equipment shall conform to the City's ordinances and the appropriate national codes.

(M) *Emergency Response Plan* – At the time of application of the Specific Use Permit, the operator shall submit to the City Manager or his designee, and the Fire Department, an emergency response plan establishing written procedures to minimize any hazard resulting from drilling, completion or production of gas wells. Said plan shall use existing guidelines established by the Texas Railroad Commission, TCEQ, Texas Department of Transportation and/or the USEPA. Plan should also include designated fire or emergency lanes throughout the entire well site. The emergency response plan shall be kept current with any additions, modifications, and/or amendments concerning all construction related activities, natural gas operations and/or natural gas production. Updated plans shall be submitted to the City Manager or his designee, and the Fire Department, within two (2) weeks of any proposed modification of this plan. A copy of the emergency response plan shall be kept on site.

(N) *Equipment Painted* – All production equipment on the site shall be painted and maintained at all times, including pump units, storage tanks, buildings and structures.

(O) *Explosives* – Under no circumstances shall explosives of any type be used during any phase of drilling, re-drilling, working, re-working, deepening, re-entering, activating, converting, fracturing or completing the gas well without the prior consent of the Fire Department. The operator shall provide a notice to the City Manager or his designee and the Fire Department prior to such activities. Use of explosives within the City shall require an Operational Permit in accordance with the Comprehensive Fee Schedule (see City Code of Ordinances- Appendix A- Fee Schedule-Chapter 38) issued by the Fire Department. The Operational Permit shall be limited to a single period of time, individual locations and use of jet perforation of wells or other technical applications such as pipe recovery. Explosives must be approved by the Fire Department prior to use. The notice shall identify the date that the explosive charges will be used, the date and means of transporting the explosive charges and the transportation route to and from the drill and/or operation site that will be used for the delivery of the explosive charges.

(P) *Fire Notice* – In the event of a fire or discovery of a fire, smoke or unauthorized release of flammable or hazardous materials on any property, the operator shall immediately report such condition to the Fire Department in accordance with the City fire code. The reporting limits for hazardous materials release shall conform to the requirements of the Texas Railroad Commission and not exceed any state or federal permitting limit. A copy of the hazardous materials release records required by the TCEQ shall be forwarded to the Fire Department on an annual basis.

(Q) *Fire Prevention; Sources of Ignition* – Fire fighting apparatus and supplies as approved by the Fire Department and required by any applicable federal, state or local law shall be provided by the operator, at the operator's cost, and shall be maintained on the drilling site at all times during drilling and production operations. The operator shall be responsible for the maintenance and upkeep of such equipment. Each well shall be equipped with an automated valve that closes the well in the event of an abnormal change in operating pressure. All well heads shall contain an emergency shut off valve to the well distribution line. Lightning protection equipment shall be installed as required at every site in accordance with the National Fire Protection Association Standard 780. Tank Battery facilities shall be equipped with remote foam line and lightning arrestor system.

(R) *Fracturing or Fracing Operations* – All formation fracture stimulation operations shall be conducted during daylight hours unless the operator has notified and obtained permission from the City Manager or his designee for operations during nighttime hours.

The following requirements shall apply to all fracture stimulation operations performed on a well:

- (1) At least ten (10) days before operations are commenced, the operator shall notify the City Manager and also post a sign, which complies with Section 13.35 of this Section, at the entrance of the well site advising the public of the date the operations will commence and an anticipated completion date. Signs notifying the public shall also be placed on site at least 10 days before beginning fracing operations.
- (2) A watchperson shall be required at all times during such operations.

- (3) At no time shall the well be allowed to flow or vent directly to the atmosphere without first directing the flow through separation equipment or into a portable tank.
- (4) All used fracing water shall be contained in enclosed tanks and shall be removed from the City to an appropriate disposal site following all state and federal regulations.

(S) *Fresh Water Wells* – It shall be unlawful to drill any gas well located within three hundred (300) feet to any existing active fresh or salt water well. The measurement shall be in a direct line from the closest well bore to the fresh water well bore.

- (1) The operator of a gas well shall provide the City Manager or his designee with a “pre-drilling” and “post-drilling” water analysis and flow rate from any existing fresh water well on-site. The operator of a gas well shall also provide the City Manager or his designee with a “pre-drilling” and a “post-drilling” water analysis from the fresh water well if the well is transferred to private or public use.
- (2) A copy of the Texas Water Development Board permit shall be provided to the City Manager or his designee along with the geographic coordinates of every water well within seven-hundred (700) feet of the well bore.
- (3) A copy of all plugging and abandonment reports filed with the state and/or transfer of ownership notice shall be provided to the City Manager or his designee and the Department of Public Works.

(T) *Gas Emission or Burning Restricted* – No person shall allow, cause or permit gases to be vented into the atmosphere or to be burned by open flame except as provided by law or as permitted by the Texas Railroad Commission. If the venting of gases into the atmosphere or the burning of gases by open flame as provided by law or as permitted by the Texas Railroad Commission, then such vent or open flame shall not be located closer than the setbacks established in the Site Plan of the approved Specific Use Permit from any building not used in operations on the drilling site and such vent of open flame shall be screened in such a way as to minimize detrimental effects to adjacent property owners.

(U) *Gas Lift Compressor* – Any onsite compressor used to “lift gas” shall be designed to comply with the noise requirements of this ordinance.

(V) *Gas Compressor Station*- Any compressor system needed onsite shall comply with the setback and noise requirements established in this ordinance.

(W) *Gas Processing Onsite* – Except for a conventional gas separator or line heater, no refinery, processing, treating, dehydrating or absorption plant of any kind shall be constructed, established or maintained on the premises without appropriate City permits and a Certificate of Occupancy.

(X) *Grass, Weeds and Trash* – All drill and operation sites shall be kept clear of high grass weeds, and combustible trash.

(Y) *Hazardous Plan* – Hazardous Materials Management Plan (HMMP) and all Material Safety Data Sheet (MSDS) for all hazardous materials that will be located, stored, transported and/or temporarily used on the operations site shall be submitted to the City Manager or his designee, and the Fire Department.

(Z) *Installation of Pipelines On, Under or Across Public Property* – The operator shall apply to the City for a right-of-way use agreement on, over, under, along or across the City streets, sidewalks, alleys and other City property for the purpose of constructing, laying, maintaining, operating, repairing, replacing and removing pipelines. The operator shall:

- (1) Not interfere with or damage existing water, sewer or gas lines or the facilities of public utilities located on, under or across the course of such rights-of-way.
- (2) Furnish the Department of Community Services a site plan showing the location of such pipelines.
- (3) Construct such lines out of pipe in accordance with the City Codes and General Design Standards.
- (4) Grade, level and restore such property to the same surface condition, as nearly as practicable, as existed prior to the laying of the pipeline.

(AA) *Lights* – No person shall permit any lights located on any drill or operation site to be directed in such a manner so that they shine directly on public roads, adjacent property or property in the general vicinity of the operation site. To the extent practicable, and taking into account safety considerations, site lighting shall be directed downward and shielded so as to both prevent direct illumination of and minimize glare on public roads and adjacent dwellings and buildings within six-hundred (600) feet of the well location.

(BB) *Muffling Exhaust* – Exhaust from any internal combustion engine, stationary or mounted on wheels, used in connection with the drilling of any well or for use on any production equipment shall not be discharged into the open air unless it is equipped with an exhaust muffler, or mufflers or an exhaust muffler box constructed of noncombustible materials sufficient to suppress noise and disruptive vibrations and prevent the escape of obnoxious gases, fumes or ignited carbon or soot.

(CC) *Noise Restrictions for Gas Well Permits.*

- (1) During the drilling, re-drilling, working or re-working, no on-site activity shall produce a sound level greater than seventy-eight (78) dB(a) when measure at a distance of three-hundred (300) feet from the drilling equipment in question.

- (2) During fracturing, no on-site activity shall produce a sound level greater than eighty-five (85) dB(a) when measured at a distance of three-hundred (300) feet from the drilling equipment in question.
- (3) During production, including gas compressor locations, no on-site activity shall produce a sound level greater than fifty (50) dB(a) when measured at a distance of one-hundred (100) feet from an on-site equipment in question.
- (4) Sound level measurements shall be made with a sound level meter conforming, as a minimum, to the requirements of the American National Standards Institute (ANSI).
- (5) If sound levels exceed the dB(a) levels references in the subsection, the City Manager or his designee may require additional sound reducing techniques and devices including, but limited to, sound reducing mufflers.

(DD) *Organic Solvents* – Organic solvents, such as trichloroethylene and carbon tetrachloride, shall not be used for cleaning any element, structure or component of the drilling rig, platform, and/or associated equipment, tools or pipes. To the maximum extent practicable, high flash point Varsol shall be used.

(EE) *Pipe Dope* – Lead-free, biodegradable pipe dope shall be substituted for API specified pipe dope.

(FF) *Pipelines* – All pipelines transporting gas throughout the City shall meet or exceed API standards, Texas Railroad Commission Standards, and City requirements.

(GG) *Pits or ponds*– All reserve pits, completion/workover pits, drilling fluid disposal pits, fresh makeup water pits, gas plant evaporation /retention pits, mud circulation pits or water condensation pits shall be lined with plastic or stored above ground in tanks. The water surface elevation of the pit may not exceed twelve (12) inches above the existing ground elevation prior to any on-site construction of the pit. Two (2) feet of freeboard is required between the surface elevation and on top of berm. Such pits and contents shall be removed from the premises and the drilling site within forty (40) days after completion of the well, unless otherwise authorized by the City Manager or his designee. No washout pits shall be located with the City, unless all fluid, sludge, solid waste materials, drilling fluids, waste oil, spent completion fluids, all other liquids, semi-liquids, mud, including hazardous inseparable by simple mechanical removal processes, and is made up primarily of natural material is immediately captured within a fully enclosed, above ground containment tank.

(HH) *Private Roads and Drill Sites* – Prior to the commencement of any drilling operations, all private roads used for access to the drill site and the operation site itself shall be at least twenty-four (24) feet wide, have an overhead clearance of fourteen (14) feet, and shall be an all-weather hard surface (including crushed rock or gravel compacted to withstand vehicles of 80,000 lbs) and maintained to prevent dust, mud and rutting. In particular cases these requirements governing the surfacing of private roads may be altered at the discretion of the City (Public Works, Engineering, Fire Departments) after consideration of all circumstances including, but

not limited to, the following: distances from public streets and highways, distances from adjoining and nearby property owners whose surface rights are not leased by the operation, the purpose for which the property of such owners is or may be used, topographical features, nature of the soil and exposure to wind.

(II) *Public Streets* – No permit shall be issued for any well to be drilled within any of the streets or alleys of the City, and/or projected streets or alleys shown by the current Thoroughfare Plan of the City, and no street or alley shall be blocked, encumbered or closed due to any exploration, drilling or production operations unless prior consent is obtained from the Department of Public Works. Any consent from the Department of Public Works shall be temporary in nature and state the number of hours and/or days that any street or alley may be blocked, encumbered or closed. The site must not conflict with the City's Thoroughfare Plan.

(JJ) *Salt Water Wells* – No salt water disposal well shall be located within the City.

(KK) *Signs* – A sign shall be immediately and prominently displayed at the gate on the temporary and permanent site fencing erected pursuant to this Section. Such sign shall be durable material, maintained in good condition and, unless otherwise required by the Commission, shall have a surface area of not less than sixteen (16) square feet with contrasting lettering not less than four (4) inches tall and shall be lettered with the following:

- (1) Well name and number and site address.
- (2) Name of operator.
- (3) The emergency 911 number.
- (4) Twenty-four (24) hour telephone numbers of the operator responsible for the well who may be contacted in case of emergency.
- (5) Permanent weatherproof signs reading "DANGER NO SMOKING ALLOWED," in both English and Spanish shall be posted immediately upon completion of the well site fencing at the entrance of each well site and tank battery or in any other location approved or designated by the Fire Department of the City. Sign lettering shall be four (4) inches in height and shall be red on a white background or white on a red background. Each sign shall include the emergency notification numbers of the Fire Department and the operator, well and lease designations required by the Texas Railroad Commission.
 - a. *Storage of Equipment* – On-site equipment storage is prohibited on the operation site. No equipment shall be stored on the drilling or production site, unless it is necessary to the everyday operation of the well. Lumber, pipes, tubing and casing shall not be left on the operation site except when drilling or well servicing operations are being conducted on the site. No vehicle or item of machinery shall be parked or stored on any street, right-of-way or in any driveway, alley or upon any operation site which constitutes a fire hazard or

an obstruction to or interference with fighting or controlling fires except that equipment on the site. The Fire Department shall be the entity that determines whether equipment on the site shall constitute a fire hazard. No refinery, processing, treating, dehydrating or absorption plant of any kind shall be constructed, established or maintained on the premises. This shall include a conventional gas separator or dehydrator.

- b. *Storage Tanks* – All tanks and permanent structures shall conform to the API specifications unless other or additional specifications are approved by the Fire Department. All storage tanks shall be equipped with a secondary containment system including lining with an impervious material. The secondary containment system shall be a minimum of three (3) feet in height and one and one-half (1.5) times the contents of the largest tank in accordance with the Fire Code, and buried at least one (1) foot below the surface. Drip pots shall be provided at the pump out connection to contain the liquids from the storage tank. All tanks shall be set back pursuant to the standards of the Texas Railroad Commission and the National Fire Protection Association. Each storage tank shall be equipped with a level control device that will automatically activate a valve to close the well in the event of excess liquid accumulation in the tank. All meters, storage tanks, separation facilities, or other aboveground facilities proposed in the floodplain shall be outside of the floodway and shall comply with the requirements for development in the Stormwater and Flood Protection Ordinance.
- c. *Surface Casing* – Surface casing shall be run and set in full compliance with the applicable rules and regulations of the Texas Railroad Commission.

(LL) *Tank Battery Facilities* – Tank battery facilities shall be equipped with a remote foam line and a lightning arrestor system.

(MM) *Tank Specifications for Gas Well Permit* – All tanks and permanent structures shall conform to the API specifications unless other specifications are approved by the Fire Department. The top of the tanks shall be no higher than twelve (12) feet above the terrain surrounding the tanks.

(NN) *Valves* – Each well must have a shutoff valve to terminate the well's production. The Fire Department shall have access to the well site to enable it to close the shut-off valve in an emergency.

(OO) *Vehicle Routes for Gas Well Permits* – Vehicles associated with drilling and/or production in excess of three (3) tons shall be restricted to state arterials, and where local access is required, to those arterials, collectors and/or commercial routes designated on the City's Thoroughfare Plan.

(PP) *Waste Disposal* – Unless otherwise directed by the Texas Railroad Commission, all tanks used for storage shall conform to the following: The operator must use portable closed steel

storage tanks for storing liquid hydrocarbons. Tanks must meet the API standards. All tanks must have a vent line, flame arrester and pressure relief valve. All tanks must be enclosed by a fence. Drilling mud, cuttings, liquid hydrocarbons and all other field waste derived or resulting from or connected with the drilling, re-drilling, working, re-working or deepening of any well shall be discharged into an above-ground, self-contained tank. Without the express consent of the City, all disposals must be located outside the city limits of Farmers Branch and in accordance with rules of the Texas Railroad Commission and any other appropriate local, state or federal agency. Unless otherwise directed by the Texas Railroad Commission and approved by the City Manager or his designee, waste materials shall be removed from the site and transported to an off-site disposal facility not less often than every thirty (30) days. Water stored in on-site tanks shall be removed as necessary. All waste shall be disposed of in such a manner as to comply with the air and water pollution control regulations of the state, this Section and any other applicable ordinance of the City. Location of the waste disposal site for all waste material (including water) shall be submitted to the City prior to transport of the material offsite.

(QQ) *Watchman* – The operator must keep a watchman or security personnel on the site during the drilling or re-working of a well when other workmen are not on the premises.

(RR) *Wellhead Status After Fracing* – All wellheads waiting on completion, for a period greater than Ten (10) days, shall be:

- (1) Completed through the production casing flange with a metal plate or blind flange bolted across the head; and
- (2) Surrounded with an eight (8) foot tall chain link fence having a gate and lock; and
- (3) The cellar shall be filled or closed; and
- (4) The Bradenhead shall be piped to the surface and open to the atmosphere or have an observable and adequate pressure gauge with operable test valve.

(SS) *Work Hours* – Site development, other than drilling and fracturing, shall be conducted only between 7:00 a.m. and 7:00 p.m., Monday through Saturday. Truck deliveries of equipment and materials associated with drilling and/or production, well servicing, site preparation and other related work conducted on the well site shall be limited to between the above same work hour restrictions except in case of fires, blowouts, explosions, and any other emergencies or where the delivery of equipment is necessary to prevent the cessation of drilling and production. The operator may request an exception from the City Council.

Sec. 34.521. Screening.

(A) Throughout the entire exploration, drilling and production process there shall be screening improvements required during each phase of the process.

(B) *Exploration to Commencement of Commercial Production(Drilling Phase)* – An eight (8) foot (total height—including barb or razor wire) chain link fence (minimum 11 gauge). A secured

entrance gate shall be required. All gates are to be kept locked when the operator or his employees are not within the enclosure. A Knox Padlock or Knox Box with a key shall be provided to access the well site to be used only in case of an emergency.

(C) All gas compressors shall be totally enclosed. Sufficient soundproofing shall be installed such that no gas compressor shall produce a sound level greater than 5 dB(a) when measured at a distance of three hundred (300) feet from the compressor. City council may waive the masonry requirement for these sound proof compressor enclosures.

(D) *Commencement of Commercial Production through Abandonment (Production Phase)* – An eight (8) foot (total height) chain link fence (minimum 11 gauge) with all weather screening fabric or with slat inserts, and landscaping shall be required to enclose and visually screen the well and all associated equipment. The City may require an 8 foot (maximum height) masonry wall or other types of screening to be installed. Appropriate berming around the site is strongly encouraged. The landscaping shall be in compliance with the following minimum requirements:

- (1) One (1), three (3) inch caliper shade tree, ten to twelve (10-12) feet in height at the time of planting, for each fifty (50) feet of the operation site's perimeter; and
- (2) Three (3) ornamental trees, six to eight (6-8) feet in height at the time of planting, for each one-hundred (100) feet of the operation site's perimeter.
- (3) Such trees are encouraged to be placed in natural groupings where possible, and in a layout to best screen visual corridors to the operation site. City staff shall approve the species and placement of trees before installation.

Sec.34.522. Cleanup and Maintenance.

(A) *Blowouts* – In the event of the loss of control of any well, the operator shall immediately take all reasonable steps to regain control regardless of any other provision of this Section and shall notify the City Manager or his designee and the Fire Department as soon as is practicable. The City Manager or his designee shall certify in writing, briefly describing the same, to the City Manager. If the City Manager, in his opinion, believes that danger to persons and property exists because of such loss of well control and that the operator is not taking or is unable to take all reasonable and necessary steps to regain control of such well, the City may then employ any well control expert or experts or other contactors or suppliers of special services, or may incur any other expenses for labor and material which the City deems necessary to regain control of such well. The City shall then have a valid lien against the interest in the well of all working interest owners to secure payment of any expenditure made by the City pursuant to such action of the City Manager or his designee in gaining control of said well.

(B) *Cleanup After Spills, Leaks and Malfunctions* – After any spill, leak or malfunction, the operator shall remove or cause to be removed to the satisfaction of the Fire Department and the City Manager or his designee all waste materials from any public or private property affected by such spill, leak or malfunction. Cleanup operations must begin immediately. If the owner fails to begin site cleanup within twenty-four (24) hours, the City shall have the right to contact the

Texas Railroad Commission in order to facilitate the removal of all waste materials from the property affected by such spill, leak or malfunction.

(C) *Cleanup After Well Servicing* – After the well has been completed or plugged and abandoned, the operator shall clean the drill site or operation site, complete restoration activities and repair all damage to public property caused by such operations within sixty (60) days.

(D) *Free of Debris* – The entire site shall be kept free of debris, pools of water or other liquids, contaminated soil, weeds, brush, trash, or other waste material.

(E) *Painting* – All production equipment shall be painted and maintained at all times, including wellheads, pumping units, tanks, and buildings or structures. When requiring maintenance of such facilities, the City Manager or his designee shall consider the deterioration of the quality of the material of which such facility or structure is constructed, the degree of rust, and its appearance. Paint shall be of a neutral color, compatible with surrounding uses. Neutral colors shall include sand, gray and unobtrusive shades of green, blue and brown, or other neutral colors approved by the Urban Development Department.

Sec. 34.523. Plugged and Abandoned Wells.

(A) Abandonment shall be approved by the City Manager or his designee after restoration of the drill and/or operation site has been accomplished in conformity with the following requirements at the discretion of the Engineering and Fire Department :

- (1) The derrick and all appurtenant equipment thereto shall be removed from the site.
- (2) All tanks, towers and other surface installations shall be removed from the site.
- (3) All concrete foundations, piping, wood, guy anchors and other foreign materials regardless of depth, except surface casing, shall be removed from the site, unless otherwise directed by the Texas Railroad Commission.
- (4) If any soil was contaminated, it shall be removed from the site in accordance with City, state and federal regulations.
- (5) All holes and depressions shall be filled with clean, compactable soil.
- (6) All waste, refuse or waste material shall be removed from the site.
- (7) During abandonment, operator shall comply with all applicable sections in this Section.

(B) The operator can only abandon a well if the City Manager or his designee has reviewed and approved the abandonment.

(C) *Surface requirements for plugged and abandoned wells.* Whenever abandonment occurs pursuant to the requirements of the Texas Railroad Commission and the City, the operator so abandoning shall be responsible for the restoration of the well site to its original condition as nearly as practicable, in conformity with the regulations of this Section.

(D) *Abandoned well requirement.* The operator shall furnish the following to the City Manager or his designee:

- (1) A copy of the approval of the Texas Railroad Commission confirming compliance with all abandonment proceedings under state law; and
- (2) A notice of intention to abandon under the provisions of this section and stating the date such work will be commenced. Abandonment may then be commenced on or subsequent to the dates so stated.

Secs. 34.524–34.529. Reserved.

Sec. 34.530. Technical Advisor.

The City may from time to time employ a technical advisor or advisors who are experienced and educated in the gas industry or the law as it pertains to gas matters. The function of such advisor(s) shall be to advise, counsel or represent the City on such matters relating to gas operations within the City as the City may want or require and the effect thereof, both present and future, on the health, welfare, comfort and safety of the citizens of the City. In the event such technical advisor(s) is (are) employed for the purpose of advising, counseling or representing the City relative to an operator's unique purpose or circumstances, case or request relative to this chapter, then the cost for such services of such technical advisor(s) shall be assessed against and paid for by such operator in addition to any fees or charges assessed pursuant to this Section. Prior to the employment of a technical advisor, the City shall inform the operator of the intended scope of work and the estimated costs and expenses. The employment of a technical advisor shall be approved by the City Council.

Sec. 34.531. Appeals.

All appeals regarding specific use permits and gas well permits shall be decided by the City of Farmers Branch Zoning Board of Adjustment. All further appeals shall be to the appropriate Circuit Court.

Sec. 34.532. Penalty Clause.

(A) It shall be unlawful and an offense for any person to do the following:

- (1) Engage in any activity not permitted by the terms of a Gas Well Permit issued under this Section; or

(2) Fail to comply with any condition set forth in a Gas Well Permit issued under this Section; or

(3) Violate any provision or requirement set forth under this Section.

(B) Any violation of this Section shall be punished by a fine of not more than two-thousand (\$2,000.00) dollars per violation per day, subject to applicable state law. Each day that a violation exists shall constitute a separate offense.

(C) The penalty provided herein shall be cumulative of other remedies provided by state law, including but not limited to, the recovery of civil penalties under Subchapter B, Chapter 54 of the Texas Local Government Code. The City may institute any appropriate action or proceeding in a court of competent jurisdiction to enjoin the violation of this chapter. The power of injunction may be exercised in enforcing this chapter whether or not there has been a criminal complaint filed.

Sec. 34.533. Severability Clause.

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remain phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation of this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

Sec. 34.534. Repealer and Savings Clause.

Any provision of any prior ordinance of the City whether codified or uncoded, which are in conflict with any provision of this ordinance, are hereby repealed to the extent of the conflict, but all other provisions of the ordinances of the City whether codified or uncoded, which are not in conflict with the provisions of this ordinance, shall remain in full force and effect.

Sec. 34.535. Publication Clause.

The City Secretary is authorized and directed to cause publication of the descriptive caption and penalty clause of this ordinance as an alternative method authorized by law.

Sec. 34.536. Effective Date.

This ordinance shall become effective immediately upon its passage and publication as required by law.

Secs. 34.537–34.539. Reserved.